

Department of the Treasury

§ 401.8

(2) A branch or agency of a foreign bank that relies on the exemption contained in paragraph (a) of this section is in addition required to comply with § 403.5(e) of this chapter.

(c) For the purposes of this section “financial institution” includes an insured credit union, as defined in 12 U.S.C. 1752(7).

§ 401.5 Exemption for corporate credit unions transacting limited government securities business with other credit unions.

(a)(1) Subject to the requirements of paragraph (b) of this section, a corporate credit union shall be exempt from the provisions of section 15C (a), (b) and (d) of the Act (15 U.S.C. 78o-5 (a), (b), (d)) and the regulations thereunder if its government securities dealer activities are limited to the sale and subsequent repurchase and the purchase and subsequent resale, each pursuant to a repurchase or reverse repurchase agreement, of government securities to other credit unions and such other activities as have been exempted by regulation under this part.

(2) For the purposes of this section, “corporate credit union” means a credit union whose membership consists primarily of other credit unions and that is (i) a Federal credit union as defined in 12 U.S.C. 1752(1), (ii) an insured credit union as defined in 12 U.S.C. 1752(7), or (iii) a member of the National Credit Union Administration Central Liquidity Facility.

(b) A credit union that relies on the exemption contained in paragraph (a) of this section is required to comply with:

(1) The regulations of part 450 of this chapter concerning custodial holdings of government securities; and

(2) Section 403.5(d) concerning certain repurchase transactions with customers.

§ 401.6 Exemption for branches and agencies of foreign banks that deal solely with non-United States citizens resident offshore.

(a) Subject to the requirements of paragraph (b) of this section, a branch or agency of a foreign bank shall be exempt from the provisions of section 15C (a), (b), and (d) of the Act (15 U.S.C. 78o-5 (a), (b), (d)) and the regulations of

this subchapter, if all the customers with or on behalf of whom it engages in government securities transactions are limited to foreign governments, agencies of foreign governments and other persons and entities who are not citizens of the United States and who reside or, in the case of a corporation, partnership or other entity, have their principal place of business, outside of the United States.

(b) A branch or agency that relies on the exemption contained in paragraph (a) of this section is required to comply with the regulations of part 450 of this chapter concerning custodial holdings of government securities.

§ 401.7 Temporary exemption for certain government securities brokers and dealers terminating business on or before October 31, 1987.

During the period ending October 31, 1987, a government securities broker or dealer shall be exempt from the provisions of section 15C (a), (b), and (d) of the Act (15 U.S.C. 78o-5(a), (b), (d)) and the regulations of this subchapter if:

(a) Its government securities broker or dealer activities are limited to the performance of contractual obligations entered into prior to July 25, 1987;

(b) It is the subsidiary or affiliate of a government securities broker or dealer that has registered or given notice pursuant to section 15C(a)(1) of the Act (15 U.S.C. 78o-5(a)(1)); and

(c) It ceases all government securities broker or dealer activities on or before October 31, 1987.

§ 401.8 Temporary exemption for government securities brokers and dealers that are futures commission merchants registered with the CFTC.

During the period ending October 31, 1987, a government securities broker or dealer that is a futures commission merchant shall be exempt from the provisions of section 15C (a), (b), and (d) of the Act (15 U.S.C. 78o-5 (a), (b), (d)) and the regulations of this subchapter if:

(a) It is registered with the Commodity Futures Trading Commission under section 4f of the Commodity Exchange Act (7 U.S.C. 6f) and the regulations thereunder; and

(b) It is not currently the subject of any disciplinary action by any Federal or state entity regulating persons dealing in securities or commodities.

§ 401.9 Exemption for certain foreign government securities brokers or dealers.

A government securities broker or dealer (excluding a branch or agency of a foreign bank) that is a non-U.S. resident shall be exempt from the provisions of sections 15C(a), (b), and (d) of the Act (15 U.S.C. 78o-5(a), (b) and (d)) and the regulations of this subchapter provided it complies with the provisions of 17 CFR 240.15a-6 (SEC Rule 15a-6) as modified in this section.

(a) For purposes of this section, *non-U.S. resident* means any person (including any U.S. person) engaged in business as a government securities broker or dealer entirely outside the U.S. that is not an office or branch of, or a natural person associated with, a registered broker or dealer, a registered government securities broker or dealer or a financial institution that has provided notice pursuant to § 400.1(d) of this chapter.

(b) Within § 240.15a-6 of this title, references to “security” and “securities” shall mean “government securities” as defined in § 400.3 of this chapter.

(c) Section 240.15a-6(a) of this title is modified to read as follows:

“(a) A foreign broker or dealer shall be exempt from the registration or notice requirements of section 15C(a)(1) of the Act to the extent that the foreign broker or dealer:”

(d) Paragraph 240.15a-6(a)(2)(iii) of this title is modified to read as follows:

“(iii) If the foreign broker or dealer has established a relationship with a registered broker or dealer for the purpose of compliance with paragraph (a)(3) of this rule, this relationship is disclosed in all research reports and all transactions with the foreign broker or dealer in securities discussed in the research reports are effected only through that registered broker or dealer, pursuant to the provisions of paragraph (a)(3); and”

(e) Paragraph 240.15a-6(a)(3)(i)(B) of this title is modified to read as follows:

“(B) Provides its appropriate regulatory agency (upon request or pursu-

ant to agreements reached between any foreign securities authority, including any foreign government as specified in section 3(a)(50) of the Act, and the Commission or the U.S. Government) with any information, documents, or records within the possession, custody, or control of the foreign broker or dealer, any testimony of foreign associated persons, and any assistance in taking the evidence of other persons, wherever located, that the appropriate regulatory agency requests and that relates to transactions under paragraph (a)(3) of this rule, except that if, after the foreign broker or dealer has exercised its best efforts to provide this information, including requesting the appropriate governmental body and, if legally necessary, its customers (with respect to customer information) to permit the foreign broker or dealer to provide this information to its appropriate regulatory agency, the foreign broker or dealer is prohibited from providing this information by applicable foreign law or regulations, then this paragraph (a)(3)(i)(B) shall not apply and the foreign broker or dealer will be subject to paragraph (c) of this rule;”

(f) Paragraphs 240.15a-6(a)(3)(iii)(A) (4), (5) and (6) of this title are modified to read as follows:

“(4) Maintaining required books and records relating to the transactions, including those required by § 404.1 of this title for registered brokers and dealers (excluding registered government securities brokers and dealers and noticed financial institutions), §§ 404.2 and 404.3 of this title for registered government securities brokers or dealers, and § 404.4 of this title for noticed financial institutions;

“(5) Complying with part 402 of this title with respect to the transactions; and

“(6) Receiving, delivering, and safeguarding funds and securities in connection with the transactions on behalf of the U.S. institutional investor or the major U.S. institutional investor in compliance with § 403.1 of this title for registered brokers and dealers (excluding registered government securities brokers and dealers and noticed financial institutions); §§ 403.2, 403.3, 403.4 and 403.6 of this title for registered government securities brokers and